expect to find extra-territorial taxation of domestic corporations declared void whenever other grounds can be found. Perhaps eventually it will be held void under the due process clause.

CONSTITUTIONAL LAW—INCOME TAX—EXEMPTION OF FEDERAL JUDGES.—The plaintiff claimed exemption from income taxation on his salary as federal judge on the ground that Art. 3, Sec. 1 of the Constitution prohibited the diminution of a judge's compensation during his continuance in office. The plaintiff's salary had been included in his taxable income in accordance with sec. 213 of the Revenue Act of 1918 (1919) 40 Stat. 1057. *Held,* Justices Holmes and Brandeis dissenting, that the exemption should be granted. *Evans* v. *Gore* (1920) 40 Sup. Ct. 550.

Although federal adjudication is lacking, at least two states having similar constitutional prohibitions have dealt with the problem of taxing a judge's compensation. Pennsylvania held it liable to a general uniform tax. *Commissioners* v. *Chapman* (Pa. 1829) 2 Rawle 73; *cf. Commonwealth* v. *Mann* (Pa. 1843) 5 Watts & S. 403, 417; whereas in Louisiana, a city tax on a state judge's salary was held unconstitutional. *New Orleans* v. *Lea* (1859) 14 La. Ann. 197. Extra-judicial opinion is also divided. (1863) 157 U. S. 701 and (1869) 13 Op. Atty. Gen. 161; (1919) 31 Op. Atty. Gen. 475. Mr. Justice Field held such a tax unconstitutional, in a separate opinion in *Pollock* v. *Farmers' Loan and Trust Co.* (1894) 157 U. S. 429, 604, 15 Sup. Ct. 673. The court in the instant case applies the principle laid down in *McCulloch* v. *Maryland* (1819) 4 Wheat. 316, and *Collector* v. *Day* (1870) 11 Wall. 113, that federal and state governmental agencies are immune from taxation by one another, to cover the proposition that salaries of members of one branch of the government are immune from taxation by another branch of the same government. The contention of the minority is that the safeguard in Art. 3, Sec. 1 was designed to protect the judiciary merely from the discriminative diminution of their salaries and not to relieve them of those burdens of citizenship which all bear generally. The principle seems applicable here which was laid down in *Peck and Co.* v. *Lowe* (1918) 247 U. S. 165, 38 Sup. Ct. 432, and in *U. S. Glue Co.* v. *Oak Creek* (1918) 247 U. S. 321, 38 Sup. Ct. 499, that a general tax levied on the net incomes of all businesses, when applied to concerns engaged in exportation or interstate commerce, will not act as an unconstitutional tax upon exports or interstate commerce. On principle it seems that the tax provision in question would not be repugnant to the established constitutional purpose that the independence of the judiciary shall not be jeopardized.

CONTRACTS—OUSTER OF COURTS—PUBLIC POLICY.—The plaintiff gave a fidelity bond to the defendant's employer against defalcation by the defendant. In consideration of, and as inducement for, the giving of this bond, the defendant agreed to indemnify the plaintiff against any loss it might sustain on the said bond. It was further agreed that the vouchers showing payment by the plaintiff of any claim should be conclusive evidence of the defendant's liability to the plaintiff, provided that the payment was made in good faith. *Held,* that the contract providing that the vouchers should be conclusive evidence of liability was not void although it ousted the court of jurisdiction. *National Surety Co.* v. *Fulton* (1st Dept., 1920) 192 App. Div. 645, 183 N. Y Supp. 237.

The courts manifest a growing liberality in enforcing agreements to arbitrate although the terms necessarily result in a partial ouster of the jurisdiction of the court. *Scott* v. *Avery* (1856) 5 H. L. C. 811; *Delaware & Hudson Canal Co.* v. *Pennsylvania Coal Co.* (1872) 50 N. Y. 250; see (1904) 4 Columbia Law Rev. 600; see N. Y., Laws 1920, c. 275 § 2; *contra, Hartford Fire Ins. Co.* v. *Hon* (1902) 66 Neb. 555, 92 N. W. 746. Following this tendency and swayed by the practical consideration that the sustention of the "conclusive evidence" clause would reduce guaranty insurance premiums, a clause such as in the present case has been upheld. *Guaranty Co. of North America* v. *Pitts* (1901) 78 Miss. 837, 30 So. 758; *American Bonding Co. etc.* v. *Alcatraz Const. Co.* (1913) 202 Fed. 483; *Illinois Surety Co.* v. *McGuire* (1914) 157 Wis. 49, 145 N. W. 768; *United States Fidelity etc. Co.* v. *Baker* (1918) 136 Ark. 227, 206 S. W. 314. The sounder view, however, stresses the distinction between arbitration and "conclusive evidence" cases; for whereas arbitration secures impartial umpires to supersede the courts, the operation of the "conclusive evidence" clause results in the injustice that one party is made sole judge of his own cause. *Fidelity & Casualty Co. of N. Y.* v. *Crays* (1899) 76 Minn. 450, 79 N. W. 531; *Fidelity Deposit Co. of Md.* v. *Nordmarken* (1915) 32 N. D. 19, 155 N. W. 669; *Guaranty Co. of North America* v. *Charles* (1912) 92 S. C. 282, 75 S. E. 387; see *Fidelity & Casualty Co. of N. Y.* v. *Eickhoff* (1895) 63 Minn. 170, 178, 65 N. W. 351. Whenever possible courts seek to avoid such a result. *White* v. *Middlesex* (1883) 135 Mass. 216; *cf. London Tramway Co.* v. *Bailey* (1877) L. R. 3 Q. B. D. 217. Furthermore in cases like the instant case the principal is hardly in a position to demur to the terms of the contract submitted by a large surety corporation. Therefore the courts which do not follow the rule of the principal case, although perhaps in derogation of the express agreement of the parties, more adequately protect the rights of the individual against the corporation. Nor does the insertion or omission of the clause "provided the payment was made in good faith" seem to offer any sound basis for distinction from our conclusion, in as much as in any case the courts would intercede in case of fraud.

CRIMINAL LAW—BROKERS—HYPOTHECATION OF CUSTOMERS' SECURITIES.—The defendant's brokerage firm, after subscribing through a bank for Liberty bonds for its customers and itself, borrowed from the bank the money with which to pay for the bonds, instructing it to hold the bonds, when issued, as security. Later, after the bonds had been issued, and the customers had paid for them, the defendant's firm executed a renewal note, the same bonds remaining as security. *Held*, the execution of the renewal note constituted hypothecation of the customers' securities in violation of N. Y. Penal Law § 956, even though the defendant never had actual possession of the bonds. *People* v. *Atwater* (N. Y. 1920) 128 N. E. 196.

To commit the statutory crime of hypothecation of customer's securities the defendant must have had possession of the bonds. N. Y. Penal Law § 956. The court, in the instant case, considered that he obtained momentary constructive possession of the bonds when he executed the renewal note. The renewal of a note, however, does not, without specific agreement, discharge the pre-existing debt, so as to release the collateral security, but merely extends the time of its payment. *Collins et al.* v. *Dawley* (1878) 4 Colo. 138; see *First Nat. Bank* v. *Gunhus* (1907) 133 Iowa 409, 413, 110 N. W. 611. For the